

Message Text

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41

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FM AMEMBASSY SANTIAGO

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TAGS PINT, CI

SUBJECT: FORMATION F COUNCIL OF STATE

REF: SANTIAGO 8695

1. IN SPECIAL CEREMONY DECEMBER 31, PRESIDENT PINOCHET SIGNED CONSTITUTIONAL STATUTENUMBER ONE CREATING A COUNCIL OF STATE (REFTEL). COUNCIL WILL BE A CONSULTATIVE BODY ON GOVERNMENT AND CIVIL ADMINISTRATION TO FURNISH INFORMED OPINIONS WHEN SOLICITED BY THE PRESIDENT. IN EXPLANATIONOF COUNCIL AND ITS FUNCTIONS DURING CEREMONY, CONSTITUTIONAL DRAFTING COMMITTEE CHAIRMAN ENRIQUE ORTUZAR SAID ADVISORY MANDATE OF COUNCIL WOULD NOT "LESSEN THE PREROGATIVES AND DECISION MAKING POWERS OF THE PRESIDENT OF THE REPUBLIC."

2. OTUZAR STATEMENT EXPANDED CATEGORIES OF PERSONS TO COMPOSE COUNCIL. BESIDES THOSE MENTIONED PARA ONE REFTL, COUNCIL WILL BE COMPOSED OF AN EX-MINISTER OF STATE, AND EX-DIPLOMAT OF AMBASS-ADORIAL RANK, AN EX-UNIVERSITY RECTOR, A CURRENT OR FORMER PROFESSOR OF LAW AND ONE OF ECONOMICS AND REPRESENTATIVES OF PROFESSIONAL ASSOCIATIONS, BUSINESS, LABOR, WOMEN'S ORGANIZATIONS, AND OF YOUTH. NO ONE WAS ACTUALLY NAMED.

3. APPOINTED COUNCIL MEMBERS WILL SERVE FOR THREE YEARS AT THE
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DISCRETIONOF THE PRESIDENT. THE COUNCIL WILL HAVE A PRESIDENT

AND A VICE-PRESIDENT APPOINTED BY THE PRESIDENT OF THE REPUBLIC.

4. COMMENT: WE ASSUME, BASED ON GOVERNMENT STATEMENTS AND METHOD USED TO PROMULGATE NEW CONSTITUTIONAL STATUTE, THAT GOC CONSIDERS COUNCIL OF STATE AS A PERMANENT BODY TO BE INCORPORATED IN THE NEW CONSTITUTION. DESPITE APPOINTED REPRESENTATION OF ALL MAJOR INTEREST GROUPS AND EXCLUSION OF POLITICAL PARTIES, GOC APPARENTLY CONSIDERS COUNCIL A DEMOCRATIC INSTITUTION.

5. COUNCIL'S MANDATE IS HIGHLY RESTRICTIVE. IT MAY FURNISH OPINIONS ONLY AS SOLICITED, AND THOSE WILL NOT AFFECT PRESIDENTIAL PREROGATIVES. PRESIDENT HAS COMPLETE CONTROL OVER COUNCIL. ITS CREATION IS CONSONANT WITH GOC'S EXPRESSED INTENTION TO USE CORPORATE STRUCTURES IN SYSTEMATIZING ITS NEW DEMOCRACY.

6. GOC MAY NOW ARGUE THAT WITH EXISTENCE OF PRESUMABLY REPRESENTATIVE COUNCIL, UNICAMERAL LEGISLATURE, WHICH CONSTITUTIONAL COMMITTEE IS APPARENTLY CONSIDERING, WILL BE SUFFICIENT RATHER THAN TRADITIONAL TWO-BODY LEGISLATIVE BRANCH.

7. OF THE LIVING EX-PRESIDENTS, ONLY GONZALEZ VIDELA ATTENDED CEREMONY. ALESSANDRI EXCUSED HIMSELF FOR HEALTH REASONS (PROBABLY LEGITIMATE), WHILE PRESS DID NOT MENTION ABSENCE OF FREI.

8. CHRISTIAN DEMOCRATS RADIO BALMACEDA ON JANUARY 2 CARRIED FREI ANNOUNCEMENT THAT HE WOULD NOT PARTICIPATE IN COUNCIL. HE STATED THAT COUNCIL COULD HAVE BEEN USEFUL IF IT HAD FORMED PART OF AN INSTITUTIONAL STRUCTURE BASED ON A POPULARLY ADOPTED CONSTITUTION. HE NOTED THAT IT "DID NOT EMANATE FROM A CONSTITUTION," AND THAT HE DID NOT APPROVE ITS LEGAL BASE, ITS FUNCTIONS, OR ITS REPRESENTATIVENESS.
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